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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/628,980
Filing Date: July 29, 2003
Appellant(s): BLATTNER ET AL.

MAILED

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GROUP 3600

Janik Marcovici

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/23/07 appealing from the Office action mailed 3/20/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect.

Claim 18 is correctly listed as being finally rejected but is not listed as on appeal in this section, even though the first line of the "Grounds of Rejection to be Reviewed on Appeal" has the claim listed. Since claim 18 is not addressed after here and is not in the claim appendix, it is assumed that claim 18 is not actually being appealed and this section of the brief is deemed as correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

Change the first ground to:

"1. Are claims 1, 3-7, 9, 13-17, 21-28 indefinite under 35 U.S.C. 112 second paragraph?"

Claim 18 was not listed as on appeal in the "Status Of Claims" as discussed above. Therefore, it is deemed a typo that claim 18 was included in the grounds of rejection to be reviewed on appeal.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,690,993	Foulke et al.	2-2004
6,900,135	Somekh et al.	5-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims, the claim 18 rejections are not appealed and are listed merely for convenience:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,3-7,9,13-18,21-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims in general are vague and unclear and seem to be trying to place method limitations into apparatus claims, which is improper. A few examples are:

In claim 1, it is unclear what is being referred to in lines 3 & 4 by "which" and line 10 by "is hereby". For sake of examination it is assumed applicant was referring to the reticle handling device. Further wording such as "by means of which" and "can be connected" is vague and leaves it unclear what is actually being positively claimed and what item is being referred to.

In claim 9, language such as "selectable" is unclear since it is not defined how and in what fashion the modules are "selectable". Furthermore it is not clear whether the limitation "different interchangeable modules" is being positively recited.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,3-7,9,13-17,24-26,28 are rejected under 35 U.S.C. 102(e) as being anticipated by Foulke (US 6,690,993).

Re claim 1, Foulke teaches a reticle manipulating device (10,120/115) with a substantially closed housing (12,etc.) for maintaining clean room conditions and several

functional units (32a-d,18,14,16,70,28,121-124,etc.) connectable to the reticle manipulating device, a first functional unit being an input/output station (32a-d,128 or 118), a manipulating device (18,etc.) inside the housing;
a detachable interface with mechanical and electrical parts for the functional unit and reticle manipulating device connection (inherent from figures 1,6,7,15,16).

Re claim 3, Foulke teaches an input/output station (32a-d,128 or 118), in which several input/output units (32a-d,128,16 or 118) can be mounted in a detachable manner, wherein a height of at least several of the input/output units corresponds each time to a whole-number multiple of a basic grid size.

Re claim 4, Foulke teaches a system with at least one second functional unit (32a-d,18,14,16,70,28,121-124,etc.) that is different and can be exchanged with the first functional unit.

Re claim 5, Foulke teaches functional units (32a-d,18,14,16,70,28,121-124,etc.) with different types of function.

Re claim 6, Foulke teaches several functional units (32a-d,18,14,16,70,28,121-124,etc.) with the same type of function.

Re claim 7, Foulke teaches a stocking unit functional device 16 for reticles 38.

Re claim 9, Foulke teaches a reticle manipulating device (10,120/115) with a substantially closed housing (12,etc.) for maintaining clean room conditions and several interchangeable functional units (32a-d,18,14,16,70,28,121-124,etc.) connectable to the reticle manipulating device, a first functional unit being an input/output station (32a-d,128 or 118), a manipulating device (18,etc.) inside the housing.

Re claim 13, Foulke teaches a cleaning module 98 that uses electromagnetic radiation based cleaning.

Re claim 14, Foulke teaches the housing is capable of holding an inert gas or pressurized gas atmosphere.

Re claim 15, Foulke teaches a contamination sensor 96.

Re claim 16, Foulke teaches a camera 77,79.

Re claim 17, Foulke teaches a reader 77.

Re claim 24, Foulke teaches a preconditioning module 98,28.

Re claim 25, Foulke teaches a module 98,28 for gathering particles from a reticle.

Re claim 26, Foulke teaches a module 16,32a-d, for buffering reticles.

Re claim 28, Foulke teaches a module 16,18,32a-d, for mounting and demounting reticles.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Foulke (US 6,690,993) in view of Somekh (US 6,900,35).

Re claim 18, Foulke does not teach a flatness sensor. Somekh teaches a reticle flatness sensor (columns 1-2) to increase production. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Foulk by Somekh to have a reticle flatness sensor to increase production.

Claims 21-25,27,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foulke (US 6,690,993).

Re claim 21, Foulke does not limit the type of reticles and it would have been obvious to one of ordinary skill in the art at the time the invention was made to have any type of reticle in order to make the system more useful.

Re claims 22-25,27,28, (although it is believed Foulke teaches all claimed controls and sensors of claims 24,25, and 28 as noted in the above rejections, the unclear wording of the claims requires that the claim language be read in different ways), Foulke teaches a computer control system with historical logs and various sensors 77-79,96-98 for keeping the system working properly (columns 7-8, figures 6,7,16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Foulke to use any type of useful controls in order to keep the system working properly.

(10) Response to Argument

Re A. 35 U.S.C. 112, Second Paragraph

Re claim 1

Appellant argued that it is clear what is meant by “which” and shows only a portion of the claim which is believed misleading as opposed to showing the entire claim. It is not clear whether “which” refers to the “reticle manipulating device”, the “housing” or something else such as the “units”.

Appellant argued that the European applications are allowed to use various terms. However, it is noted that this is the United States Patent Office not the European Patent Office and the rules and laws are different.

Appellant argued that it is clear what is meant by “by means of which” and “can be connected” and shows only a portion of the claim which is again believed misleading as opposed to showing the entire claim. It is not clear what is meant by the language used and it could have been easily corrected by substituting the exact terms instead of leaving it ambiguous and indefinite by using terms like “which”, “can be connected”, and “is hereby characterized”. The meaning of such terms can only be guessed at and thus they make the claim indefinite.

Re Claim 3

The 112 rejection for this claim was just an old rejection inadvertently carried from a previous office action. The only 112 issues here are those that follow from this claim depending on claim 1.

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Re Claim 9

Appellant argued that "selectable" is definite. However, one of ordinary skill would not know what appellant means by this language. For example, it might mean something is just mentally connected or it might mean something is physically picked. There is no way to tell what is actually being claimed with this language.

Re B. 35 U.S.C. 102Re claim 1

Appellant argues that Foulke does not show any interface at all that is has mechanical and electrical facets that is detachable. However, as discussed in the rejections there are numerous items in the reference that meet this. For one example pods 31 are opened by a pod opener interface 32a-d which is mechanical and has to have an electrical control element (figures 7-13) as well for pod openers to do the opening of the pods. There is also a computer control system (and software) that controls the overall system that is electrical (columns 7-12).

Furthermore, anything can be detached with either by hand or with a tool such as a screw driver or even a hacksaw. Applicant does not state "easily detachable" or detachable by a particular means.

Re claim 3

Appellant argued that that Foulke does not disclose that a height of at least one input/output unit corresponds substantially to a whole-number multiple of another height of a input/output unit and states that the units 32a-d appear to be the same height. In

response it is note that if the heights of different items are the same then they are the whole number multiple of "1" of one another. Also the claim only says "a height" without stating what height is meant. Certainly some height could be taken from one unit that could be any multiple of some other height of another unit merely depending on the particular height distance measured. For example a height could be taken as only part way up a side for one unit and twice as far up the side of another unit for the second height.

Re Claim 4

Appellant argued that Foulke does not show a second functional unit which is different in construction from the first functional unit capable of being exchanged. In response it is noted that any item is different in construction if it is not made of the identical or same material. No two devices are actually completely identical and thus two similar items such as (but not limited to) 32a and 32b are not the same but could be exchanged as broadly claimed.

Re Claim 9

Appellant argues that Foulke does not show any interface at all that is has mechanical and electrical facets that is detachable. However, as discussed in the rejections there are numerous items in the reference that meet this. For one example pods 31 are opened by a pod opener interface 32a-d which is mechanical and has to have an electrical control element (figures 7-13) as well for pod openers to do the opening of the pods. There is also a computer control system (and software) that controls the overall system that is electrical (columns 7-12).

Art Unit: 3652

Furthermore, anything can be detached with either by hand or with a tool such as a screw driver or even a hacksaw. Applicant does not state "easily detachable" or detachable by a particular means.

Appellant argued that Foulke does not show a second functional unit which is different in construction from the first functional unit capable of being exchanged. In response it is noted that any item is different in construction if it is not made of the identical or same material. No two devices are actually completely identical and thus two similar items such as (but not limited to) 32a and 32b are not the same but could be exchanged as broadly claimed.

Regarding the "selectable" argument, as stated in the 112 rejections "selectable" might refer to thought process or a mere computation action by a control program and Foulke is capable of performing these limitations.

Re C. 35 U.S.C. 103

Re 1-7

Appellant argues that the prior art does not show different types of modules. As discussed in the above rejections, it is believed that Foulke teaches these items as claimed but the ambiguity caused by 112 problems of the independent claims makes it necessary to make the 103 rejection that Foulke could be used with any known type of module. All of the modules argued are already well known in the art and Foulke details computer memory, sensors and particle gatherers (column 7, lines 28-56), scribing (memory device) and wafer fabrication (column 11, lines 41-42).

Also, appellant's arguments are regarding items not positively recited and relate to the modification of functional language, the modules only need to be capable of storing reticles and be removably connectable as detailed in the independent claim 9. The Foulke reference is capable of having various kinds of reticle processing and storing modules detachably connected to it and thus meets the claim limitations.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Michael Lowe/

Michael Lowe

Conferees:

James Keenan and Meredith Petravick

J/K

MP


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